

1  
2  
3  
4

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 || WAYMO LLC

Plaintiff.

No. C 17-00939 WHA

12

13 UBER TECHNOLOGIES INC,  
14 OTTOMOTTO LLC, and  
OTTO TRUCKING LLC.

## **FURTHER TENTATIVE JURY INSTRUCTION**

## Defendants

17       Below please find another tentative jury instruction that may assist our jury. By **NOON**  
18       **ON NOVEMBER 3**, counsel shall please critique (up to six pages total) and by **NOON ON**  
19       **NOVEMBER 7**, counsel may submit counter critiques (up to four pages total). Please follow the  
20       same guidelines as to authorities set forth at Docket No. 2010. (The earlier critiques and  
21       counter critiques are still due on their original schedule.)

23 An engineer will, through trial and error and application of his or  
24 her professional skills, sharpen his or her skills and accumulate insights  
25 that supplement the skill and know-how otherwise known in his or her  
26 field. When the engineer moves to his or her next job with a new  
27 employer, the engineer cannot be expected to delete such on-the-job  
28 practical lessons from his or her memory and will remain free under

1 the law to use those practical lessons to the same extent as skill and  
2 know-how otherwise known in the field. The engineer cannot, however,  
3 go further in his new job with a new employer and misappropriate specific  
4 engineering solutions developed by his prior employer, even those  
5 developed by him or her, where such specific solutions qualify as a trade  
6 secret. It is for the jury to decide in each case whether the engineer has  
7 misappropriated a trade secret versus merely used practical lessons from  
8 his prior employment.

9  
10  
11 **IT IS SO ORDERED.**

12  
13  
14 Dated: October 24, 2017.

15   
16 WILLIAM ALSUP  
17 UNITED STATES DISTRICT JUDGE

21  
22  
23  
24  
25  
26  
27  
28